

### **REMARKS/ARGUMENTS**

Claims 1, 7, 9, 10, 12-14, and 16-21 -20 are pending in the application. Applicants have amended the pending claims to place them in form for U.S. practice. No new matter has been added by way of these amendments, as support for the amendments can be found in the specification as filed. Based upon the above amendments and the arguments below, Applicants submit that claims are now in allowable form; thus, reconsideration and allowance are respectfully requested.

### **CLAIM REJECTIONS UNDER 35 U.S.C. §102**

In the Office Action on page 2-4, the Examiner has rejected claims 1 and 7 under 35 U.S.C. §102(b) as being anticipated by U.S. 6,089,228 ("the '228 patent"). At pages 4-6 of the Office Action, the Examiner has rejected claims 1, 7, 9, 10, 12-14, and 16-20 under 35 U.S.C. §102(b) as being anticipated by WO/90/07351. In view of the amendments herein, Applicants respectfully traverse the rejections.

Independent claim 1 recites, inter alia: "wherein upon activation of the pressure medium system, a gaseous pressure medium is released into the device for supplying the powder formulation, and forms an aerosol with the powder formulation in such a way that the powder particles are present in dispersed form within the gaseous pressure medium prior to entering the Laval nozzle, entering the mouthpiece, and leaving the inhaler." (Emphasis added.)

As has been discussed in previous communications with the U.S. Patent Office in the instant application, column 13, lines 28-48; column 14, lines 31-49; and FIGS. 2 and 4A of the '228 patent disclose that a vacuum is used to draw the medicament from the receptacle 12, through the feed tube 40, and through the throat 18 (outlet). The vacuum is created via a Venturi nozzle in which a gas source 20 provides gas via gas conduits 54 into an area downstream from the throat 18. Thus, the medicament reaches the throat 18 by vacuum (not by pressure as claimed). Additionally, the gas source 20 of the '228 patent does not communicate with the supply of the medicament (i.e., the receptacle 12). In contrast, the device as claimed recites the "auxiliary energy source in the form of a pressure medium system in communication with the

device for supplying the powder formulation". This is what causes "the powder particles . . . within the gaseous pressure medium prior to entering the Laval nozzle . . ." as claimed. WO/90/07351 discloses the same type of system as the '228 patent.

Thus, Applicants respectfully submit that independent claim 1 and the subject dependent claims are not anticipated (or rendered obvious) in view of the cited references. Accordingly, the Applicants respectfully request the § 102(b) rejections .be withdrawn.

## CONCLUSION

Applicants submit that all claims pending in the patent application are in condition for allowance. Accordingly, both reconsideration of this application and its swift passage to issuance are earnestly solicited. .In the event there are any fees due and owing in connection with this matter, please charge same to our Deposit Account No. 11-0223.

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Respectfully submitted,

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